

Practitioner's Docket No. U 011415-0

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



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00140

PATENT TRADEMARK OFFICE

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FEB 05 2001

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In re application of: JOHN WALKER

Application No.: 08/913,430

Filed: 08/913,430

For: ANTIGEN COMPOSITION AGAINST MYCOPLASMA

Group No.: 1645

Examiner: R. SWARTZ

Assistant Commissioner for Patents
Washington, D.C. 20231

REQUEST FOR CONTINUED EXAMINATION (RCE)
(37 C.F.R. 1.114)

1. Applicant hereby requests continued examination, in accordance with 37 C.F.R. Section 1.114, for the above identified application.

CERTIFICATION UNDER 37 C.F.R. SECTIONS 1.8(a) AND 1.10

(When using Express Mail, the Express Mail label number is *mandatory*;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

37 C.F.R. Section 1.8(a)

37 C.F.R. Section 1.10

☐ with sufficient postage as first class mail.

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Void date: 02/01/2001 JADD01
02/01/2001 JADD01 00000045 08913430
01 FC:131 -710.00 OP
02 FC:116 -390.00 OP

TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office (703) _____

Date: January 30, 2001

Signature

JENNIFER RASHKIN

(type or print name of person certifying)

02/01/2001 JADD01 00000045 08913430
01 FC:131 710.00 OP
02 FC:116 390.00 OP

02/01/2001 JADD01 00000074 09913430
01 FC:179 710.00 OP
02 FC:116 390.00 OP

(Request for Continued Examination (RCE))--page 1 of 6) 9-64

WARNING: 35 U.S.C. 132(b) and Section 1.114 provide for the continued examination of an application and **not** examination of a continuing application). Accordingly, the Office will not permit an applicant to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

WARNING: A continued examination request **cannot** be made if at least one office action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 161 has not been mailed. The provisions of 37 C.F.R. 1.114 also do not apply (1) to a provisional application; (2) an application for a utility or plant patent filed under 35 U.S.C. 111(a) or an international application filed under 35 U.S.C. 363 before June 8, 1995; (3) a patent under reexamination; or (4) an application for a design patent. 37 C.F.R. Section 1.114(d).

NOTE: There is no limit to the number of times the fee for continued examination may be submitted. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

NOTE: Unlike a continuation application, a continued examination request **can** utilize the mailing procedure of 37 C.F.R. 1.8. See 37 C.F.R. Section 1.8(a)(2)(i)(A).

TIME REQUEST IS BEING MADE

2. This request is being submitted (check appropriate item(s) below):

- i. ☒ Prior to abandonment of the application
- ii. ☒ Payment of the issue fee
 - ☒ Prior to payment of issue fee
 - ☐ Issue fee has been paid but a petition under Section 1.313 has been granted
- iii. ☒ Prior to a decision on appeal to the Board of Patent Appeals & Interferences
 - ☐ A notice is being separately sent to the Board of Patent Appeals & Interferences that this Request for Continued Examination is being filed.

NOTE: If such a notice is not sent to the Board, they may refuse to vacate a decision rendered after the filing of the RCE but before recognition by the Office of the RCE request under Section 1.114.

- iv. ☒ Appeal to the U.S. Court of Appeals of the Federal Circuit under 35 U.S.C. 145 or
 - ☒ Commencement of a civil action under 35 U.S.C. 146
 - ☒ Prior to the filing of such appeal or commencement of civil action
 - ☐ Such appeal or commencement of civil action has been terminated

ENCLOSURES

3. Enclosed herewith is/are:

WARNING: If reply to a final or non-final Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of Section 1.111. 37 C.F.R. Section 1.114(b).

- ☐ An information disclosure (37 C.F.R. Section 1.98)
 - ☐ Form PTO-1449 (PTO/SB/08A and 08B)
- ☒ An amendment

- ☐ New arguments
- ☐ New evidence in support of patentability
- ☐ Other:

FEE FOR REQUEST (37 C.F.R. Section 1.17(e)).

4. This application is on behalf of:

- ☐ Small entity (and status is still as small entity) \$ 355.00
- ☒ Other than a small entity \$710.00

Continued Prosecution Request Fee \$ 710.00

FEE FOR CLAIMS

NOTE: "The fee for continued examination under Section 1.114 (Section 1.17(e)) does not include additional claims fee (cf. 1.53 (d)(3)(ii))." See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

37 C.F.R. 1.53(d)(3) : "The filing fee for a continued prosecution application filed under this paragraph is:

(i) The basic filing fee as set forth in Section 1.16; and

(ii) Any additional Section 1.16 fee due based on the number of claims remaining in the application after entry of any amendment accompanying the request for an application under this paragraph and entry of any amendments under Section 1.116 unentered in the prior application which applicant has requested to be entered in the continued prosecution application."

5. The fee for claims (37 C.F.R. Section 1.16(b)-(d)) has been calculated as shown below:

(Col.1)			(Col. 2)	(Col. 3)	SMALL ENTITY		OTHER THAN A SMALL ENTITY		
Claims Remaining After Amendment			Highest No. Previously Paid For	Present Extra	Rate	Addit. Fee	OR	Rate	Addit. Fee
Total	20	Minus	31	=	x \$9 =	\$		x \$18 =	\$
Indep.	7	Minus	8	=	x \$40 =	\$		x \$80 =	\$
[] First Presentation of Multiple Dependent Claim					+ \$135 =		\$	+ \$270 = \$	
					Total Addit. Fee	\$	OR	Total Addit. Fee	\$

- * If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3,
- ** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".
- *** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

WARNING: See 37 C.F.R. Section 1.116.

(complete (c) or (d), as applicable)

(c) ☒ No additional fee is required.

OR

(d) ☐ Total additional fee required is \$ _____.

EXTENSION OF TIME

(If an extension of time is appropriate complete (a) or (b), as applicable)

6. The proceedings herein are for a patent application, and the provisions of 37 C.F.R. Section 1.136(a) apply.

(a) ☒ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. Section 1.17(a)(1)-(4), for the total number of months checked below:

Extension for <u>(months)</u>	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<input type="checkbox"/> one month	\$ 55.00	\$ 110.00
<input checked="" type="checkbox"/> two months	\$ 195.00	\$ 390.00
<input type="checkbox"/> three months	\$ 445.00	\$ 890.00
<input type="checkbox"/> four months	\$ 695.00	\$ 1,390.00
	Fee	\$ <u>390.00</u>

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

☐ An extension for _____ months has already been secured, and the fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ _____

OR

(b) ☐ Applicant believes that no extension of time is required. However, this is a conditional petition and authorization to pay the necessary fees to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

TOTAL FEE(S) DUE

WARNING: The fee for continued examination under Section 1.114 may not be deferred. 37 C.F.R. Section 1.53(f).

7. The total fee(s) due is/are:

Continued Prosecution Fee (Section 1.17(e))	\$ <u>710.00</u>
Fee(s) for additional claims (if any) (Section 1.16(b)-(d))	\$ _____
Extension of time fee (if any) (Section 1.17(a)(1)-(4))	\$ <u>390.00</u>
Total Fee(s) Due:	\$ <u>1,100.00</u>

PAYMENT OF FEE(S) DUE

8. Please pay the fee(s) for this continued examination application as follows:

<input checked="" type="checkbox"/> Check is attached for the sum of	\$ <u>1,100.00</u>
<input type="checkbox"/> Charge Account _____ the sum of	\$ _____
<input type="checkbox"/> Charge Credit Card the sum of (Credit Card Payment Form (PTO-2038) attached.)	\$ _____

Please charge any required additional fee(s) for Section 1.17(e), Section 1.16(b)-(d) and/or Section 1.17(a)(1)-(4) to

<input checked="" type="checkbox"/> Account <u>12-0425</u>	
<input type="checkbox"/> Credit Card (Credit Card Payment Form (PTO-2038) attached.)	

INVENTORSHIP

NOTE: Any change of inventors must be via the procedure set forth in 37 C.F.R. Section 1.48. See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

9. This application as amended names as inventors:

<input checked="" type="checkbox"/> the same inventors as previously designated for the claims.	
<input type="checkbox"/> fewer than the inventors previously designated and a statement accompanies this request for the deletion of the name or names of the person or persons who are not inventors of the invention now being claimed.	
<input type="checkbox"/> a person not named previously as an inventor and a petition under 37 C.F.R. Section 1.48 is/has separately:	
<input type="checkbox"/> being filed	
<input type="checkbox"/> been filed	

Reg. No.: 30,086

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SIGNATURE OF PRACTITIONER

CLIFFORD J. MASS

(type or print name of practitioner)

LADAS & PARRY

P.O. Address

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NEW YORK, N.Y. 10023